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6 **UNITED STATES DISTRICT COURT**  
7 **DISTRICT OF NEVADA**

8 UNITED STATES OF AMERICA,  
9 Plaintiff,  
10 v.  
11 CHARLES KING,  
12 Defendant.

Case No. 2:08-cr-00322-JAD-GWF-1

**AMENDED<sup>1</sup> JOINT STIPULATION**  
**FOR SENTENCE REDUCTION**  
**PURSUANT TO SECTION 404 OF**  
**THE FIRST STEP ACT**

& ORDER DIRECTING ENTRY  
OF AMENDED JUDGMENT  
ECF Nos. 82, 91, and 92

14 The United States of America, by Assistant United States Attorney Elizabeth O.  
15 White, and Defendant Charles King, by Assistant Federal Defender Sylvia Irvin, submit this  
16 Amended Joint Stipulation pursuant to the First Step Act and ask this Court to enter an  
17 amended judgment reducing Mr. King's sentence of imprisonment to 147 months and his  
18 term of supervised release to 4 years. The parties agree and stipulate as follows:

19 **A. Background**

20 The parties agree that Section 404 of the First Step Act of 2018, enacted on December  
21 21, 2018, authorizes a district court to impose a reduced sentence for crack-cocaine  
22 convictions where, had the Fair Sentencing Act (FSA) of 2010 been in effect at the time of the  
23 initial sentencing, the statutory penalties for the crack-cocaine offense would have been  
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<sup>1</sup> The following motion is amended to reflect a scrivener's error on page 3, lines 11 and 12 and to update Mr. King's sentence computation.

1 lower. Further, the parties agree that Mr. King is eligible for imposition of a reduced sentence  
2 under Section 404 of the First Step Act.

3 On December 2, 2008, Mr. King was indicted on three counts: felon in possession of  
4 a firearm in violation of 18 U.S.C. § 922(g)(1) and 924(a)(2), possession with intent to  
5 distribute cocaine base and aiding and abetting in violation of 21 U.S.C. § 841(a)(1) and  
6 (b)(1)(B)(iii), and 18 U.S.C. § 2, and using and carrying a firearm during a drug trafficking  
7 offense in violation of 18 U.S.C. § 924(c)(1)(A)(iii).<sup>2</sup> On January 27, 2009, a superseding  
8 indictment was filed alleging the same counts as the original indictment and adding a  
9 forfeiture allegation.<sup>3</sup>

11 On March 24, 2009, a jury found Mr. King guilty of all three counts.<sup>4</sup> With a base  
12 offense level of 24 and a Criminal History Category of I, the guideline range for Counts 1 and  
13 2 was 60-63 months.<sup>5</sup> Based on the finding of 13.69 grams of cocaine base as to Count 2, the  
14 minimum term of imprisonment was 5 years and the maximum term was 40 years.<sup>6</sup> As to  
15 Count 3, Mr. King faced a minimum mandatory term of 10 years to life consecutive to Count  
16 2.<sup>7</sup> On July 13, 2009, Mr. King was sentenced to concurrent terms of 60 months as to Counts  
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22 <sup>2</sup> ECF No. 1.

23 <sup>3</sup> ECF No. 22.

24 <sup>4</sup> ECF Nos. 44, 50.

25 <sup>5</sup> PSR at 19, ¶80.

26 <sup>6</sup> PSR at 6, ¶ 18; 21 U.S.C. § 841 (b)(1)(B)(iii);.

<sup>7</sup> PSR at 6.

1 and 2 followed by a consecutive term of 120 months as to Count 3, for a total of 180 months' imprisonment.<sup>8</sup>

**B. Application of the FSA and Amendment 782 to Defendant's Term of Imprisonment**

The FSA's modified penalty structure would have applied to Mr. King's crack-cocaine conviction had the FSA been in effect at that time. Accordingly, the Court is authorized to impose a reduced sentence under Section 404 of the First Step Act. Under the FSA, Mr. King's statutory range is 0 to 20 years, and under retroactive Amendment 782 to the United States Sentencing Guidelines, his advisory guideline range is 27-33 months.<sup>9</sup>

Mr. King, joined by the attorney for the United States, respectfully requests that this Court, pursuant to Section 404 and 18 U.S.C. § 3582(c)(2), reduce his sentence to 147 months, comprising 27 months concurrent as to Counts 1 and 2, and consecutive to 120 months as to Count 3. According to Mr. King's Sentencing Monitoring Computation Data sheet dated May 6, 2019, Mr. King served 125 months and 26 days in BOP custody.<sup>10</sup> Using that computation, to date, Mr. King has served 126 months and 3 days in BOP custody.

**C. Application of the FSA to Defendant's Term of Supervised Release**

The parties also agree that Mr. King is eligible for a reduction of his term of supervised release as to Count 2. The Court originally imposed three years of supervised

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<sup>8</sup> ECF No. 59.

<sup>9</sup> USPO Reduction of Sentence Report at 4 (Apr. 14, 2019).

<sup>10</sup> Exhibit 1 at 3, Mr. King's Sentence Monitoring Computation Data (May 6, 2019).

1 release as to Count 1 and four years of supervised release as to Counts 2 and 3.<sup>11</sup> Under the  
2 FSA, the term of supervision for Count 2 is reduced to three years. Accordingly, the parties  
3 agree that this Court should reduce the term of supervision for Count 2 from four years  
4 to three years. The parties agree that the total term of supervision should remain at  
5 four years and that all other conditions of supervision shall remain the same.  
6

7 **D. Waivers; Review and Consent of Defendant**

8 Mr. King knowingly and voluntarily waives any right to appeal any aspect of the  
9 revised sentence, except that, if the revised sentence exceeds the recommended term of 147  
10 months, Mr. King does not waive any rights he may have to appeal that aspect of the revised  
11 sentence.<sup>12</sup>  
12

13 Mr. King waives any right he may have to a hearing on his motion under Section 404  
14 of the First Step Act and any right he may have to attend such a hearing. He has reviewed this  
15 Joint Stipulation with defense counsel, and he agrees with and consents to this Joint  
16 Stipulation.<sup>13</sup>  
17

18 **E. Acknowledgment of Reserved Rights**

19 Notwithstanding this Joint Stipulation, the United States expressly preserves and does  
20 not waive its contentions that a defendant seeking relief under Section 404(b) of the First Step  
21 Act has no constitutional or statutory right to counsel, to a hearing on the motion, or to be  
22 present at any hearing on the motion.  
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24 <sup>11</sup> ECF No. 59.

25 <sup>12</sup> See Exhibit 2, Mr. King's Declaration.

26 <sup>13</sup> See *id.*

1 **F. Conclusion**

2 For the foregoing reasons, the parties respectfully request that this Court reduce  
3 Mr. King's sentence pursuant to Section 404 of the First Step Act and enter an amended  
4 judgment sentencing him 147 months' imprisonment and 4 years' supervised release, with all  
5 other provisions of the amended judgement dated July 13, 2009, to remain in effect.<sup>14</sup> We  
6 also ask the Court to include in the amended judgment, Mr. King's credit for time served (as  
7 of June 7, 2019, he has served 126 months and 3 days in BOP custody).

8 DATED this 7<sup>th</sup> day of June, 2019.

9  
10 RENE L. VALLADARES  
11 Federal Public Defender

12 By /s/ Sylvia A. Irvin

13 SYLVIA A. IRVIN  
Assistant Federal Public Defender

NICHOLAS A. TRUTANICH  
United States Attorney

By /s/ Elizabeth O. White

ELIZABETH O. WHITE  
Assistant United States Attorney

14 **ORDER**

15 Based on the parties' amended stipulation [ECF No. 92] and Section 404 of the First Step Act  
16 of 2018, IT IS HEREBY ORDERED that defendant Charles King's sentence be reduced to a  
17 total sentence of 147 months' imprisonment(27 months for counts 1 and 2, concurrent; 120  
18 months for count 3), followed by 4 years' supervised release(3 years for counts 1 and 2; 4  
19 years for count 3), with credit for having served 126 months and 6 days in BOP custody as of  
the date of this order. **The Clerk of Court is directed to ENTER an AMENDED JUDGMENT  
reflecting this reduced sentence and credit. All other pending motions [ECF Nos. 82 and  
91] are DENIED as moot.**

20  
21 DATED: 6/10/2019

22   
UNITED STATES DISTRICT COURT JUDGE

23  
24 <sup>14</sup> The parties make this joint recommendation after having reviewed Mr. King's BOP  
25 progress reports along with other relevant records. If the Court is inclined to deny the jointly  
26 recommended sentence reduction, the parties respectfully request an opportunity to provide  
those records for the Court's review and to make additional argument in support of the Joint  
Stipulation.